

Unapproved

TOWN OF ESSEX

**Inland Wetlands and Watercourses Commission
29 West Avenue, Essex, CT 06426
essexct.gov**

MINUTES – Public Hearing and Regular Meeting

August 14, 2012

Call to Order and Seating of Members

The regularly scheduled meeting of the Essex IWWC was conducted on August 14, 2012 in the Conference Room A, of the Essex Town Hall at 8:00 p.m. Those members in attendance were Chair, Daniel Lapman, Vice Chair, Chuck Corson, Nancy Arnold, Fred Szufnarowski, Steve Knauth, alternate, Jim Leo, alternate, Claire Tiernan, Planning Commission Liaison and Jeff Lovelace, Conservation Commission liaison. Mr. Lovelace stepped down

Staff: Joe Budrow, Wetlands Enforcement Agent and Zoning Enforcement Agent and Stella Beaudoin, Recording Secretary.

Mr. Lapman called the meeting to order at 8:00 p.m.

Old Business

- **Discussion and vote on Application #12-5 Ingham Hill Road, Applicant, River Sound Development, LLC.** This is an application for a 6-lot Open Space subdivision at the end of Ingham Hill Road on a property that is 36.6 acres in size. There are four areas of wetlands and/or watercourses on the property. Two brooks, two swampy areas and a pond are located on proposed open space land. Lots 2 and 3 appear to have regulated activities just outside of the 100-foot upland review. Continued from the April 10, 2012 and May 8, 2012 IWWC meeting.

Commissioner Charles Corson read the following comments into the record:

“Comments by Charles Corson, 8-14-2012 Regarding Application No. 12-5, 6 Lot Open Space Subdivision on Ingham Hill Road.”

Reasons for approval

1. There is no construction within wetlands nor within the 100' review area.
2. Stormwater flow increases have been virtually mitigated by use of Low Impact Development (LID) methods.
3. A landowner has the right to reasonably develop his land.

4. the design of this subdivision has been revised several times to try to address the concerns of the Town, the Town's consultants/agents, concerned citizens and other interested parties. These revisions, in my opinion, represent conditions sufficient to prevent "Major changes to Wetlands functions without loss in functional value", except at Lot 2.
5. Regarding requests to eliminate Lots 2 and 3, my opinion is that lot 3 is acceptable with conditions. The house location is at the edge of a steep slope, unlikely to be a path for turtles or other species to traverse between Wetlands 1 and the vernal pool, while the "connectivity corridor" is a logical route. A second possible route would be SE up the valley past the steep area and easterly to the vernal pool (#6).
6. Significant time has been spent discussing protection of wildlife. This commission has endeavored to comply with this important goal, but, we cannot by statute deny an Application on such basis. The exception is when specific wildlife species affect the health and function of a wetlands system, such as "Wood Frogs". The design before us provides significant protection of wildlife, including the few NDDB species of concern that are reported to occur within this property.

B. Suggested Conditions of Approval:

1. Eliminate Lot 2. the concern was noted throughout the Public Hearing that this lot was "too tight" or "unbuildable", which appears true but is not sufficient for elimination based on the Wetlands Regulations. In my opinion, this lot should be eliminated based on the significant value of the adjacent Wetlands #1 and the expected use of a resident wood frog population to utilize Lot 2 as habitat. Since this species is known to promote the health and function of Wetlands, the elimination of development in this area will meet this criteria. This condition will ensure the protection of a highly valuable Wetland, which is not a vernal pool but works with vernal Pool #6, in Wetland #2. this provides for continuation of the important habitat interaction which exists now.
2. Condition on Lot 3: "connectivity corridor" crosses the paved driveway, which may act as a barrier to some species, including high asphalt temperatures. The condition is that the driveway, within the limits of this corridor, be constructed of "Grasscrete" or paving blocks with grassed joints, or other similar construction, in order to provide more natural crossing.
3. Also on Lot 3, per recommendations of NDDB/DEEP, the construction will be in the spring. If constructed in summer or fall, their eastern box turtle recommendations, dated July 5, 2012 shall be followed.

4. Similar to Lot 3, a condition should require the Trailhead parking lot surface to be constructed of porous blocks to reduce runoff and be more natural. If acceptable to the conservation commission, this parking area could be eliminated.
5. the Conservation Commission, in their July 6, 2012 report, Item No. 6, restricting use of fertilizer, pesticides and herbicides. This should be a condition.
6. The soil media and construction methods for the bioretention systems shall conform to the June 3, and July 9, 2012 recommendations of Trinkhaus Engineering, LLC.

C. Other:

1. The Essex IWWC should send a copy of this decision to the Old Saybrook IWWC and Planning commission, with the following request: Please have current development plans adjacent to this Essex site revised, prior to any approvals, to protect the interaction between Vernal Pool #6 in Essex and vernal Pool #24 in Old Saybrook, if such development is again considered.

Commissioner Nancy Arnold stated that the applicant has been responsive to all of the comments that have been raised by Trinkhaus, REMA, DEEP and the applicant, River Sound Development. Ms. Arnold stated that she has reviewed the Minutes from all of the Public Hearings and more specifically, Minutes dated June 12, 2012, in which Mr. Robert Doane stated a conservation easement has been added to Lot 2 within the 100 foot review area and Lot 3 has been modified to reduce impact on review area. Further, Lots 3 and 4 were combined. Reducing paving area was also noted. The back property line was adjusted to Lots 5 and 6.

In the July 10, 2012 Minutes, Mr. Doane talked about the concerns expressed in the Trinkhaus Engineering letter dated July 9, 2012 and he addressed many of those issues. Ms. Arnold stated that she would agree with those recommendations. Lot 2 is the issue based on all of the reports and studies. The concern is over the vernal pool. With regard to the area of concern based on the 2002 standards, everything has been moved outside of the 100' area of concern for vernal pools. Ms. Arnold stated that her opinion is based on the comments made in the Trinkhaus Engineering report and also on the DEEP report on the species within the wetland areas and recommendations. Ms. Arnold stated that most of the DEEP concerns pertained to silt fencing and those concerns were addressed by Robert Doane, P.E. Ms. Arnold referenced the July 10, 2012 letter from Michael Klemens responding to the DEEP's points, and on page 2 of the letter, addressed was the vernal pool and specifically notes that the vernal pool envelope is the first 100 feet beyond the high water mark. Ms. Arnold noted that all of the evidence is that the envelope is more than past the 100 foot beginning mark of the 750 foot mark. The Trinkhaus letter concludes, importantly, development proposal on all lots except on lot 2 do not propose significant impact on the inland wetlands. Ms. Arnold suggested that if an IWW Permit is to be approved, the following condition: Create language in the

permit stating that Mr. Budrow will be on hand when the activity takes place and Mr. doane and Mr. Trinkhaus will also be available to be sure we are not impacting the vernal pool area.

After reviewing the reports, Ms. Arnold stated that she does not feel that the habitats of the species of special concern will be significantly impacted as the wetland area will not be directly impacted. Ms. Arnold stated that she recognizes the passion and concern of all of the neighbors. However, the IWWC has guidelines to which this commission must adhere.

Commission member Steven Knauth stated that he is in agreement with Mr. Corson's comments. Mr. Knauth stated that more specifically, Mr. Corson's thoughts on Lot 3 were on spot and Mr. Knauth stated that he also agreed that a copy of this evening's decision should be sent to the Old Saybrook IWWC and Planning commission with a request to have the current development plans adjacent to this Essex site revised, prior to any approvals, so as to protect the interaction between Vernal Pool #6 in Essex and Vernal Pool #24 in Old Saybrook, if such development is again considered.

Commission member Fred Szufnarowski appreciates all of the hard work and the responsiveness of the applicant and of the residents. In addition to the proposed silt fences, Mr. Szufnarowski recommends the addition of silt fencing along the property lines.

Mr. Corson stated that normally a single road sediment fence is installed comprised of a woven filter fabric. Mr. Corson suggested the installation of a non-woven filter fabric that will trap tiny particles in addition to the normal silt fencing.

Mr. Corson commented on page 4 of July 10, 2012 Minutes noting that his basis for the elimination of Lot 2 was based on testimony presented by Sigrun Gadwa Certified Professional Wetland Scientist with REMA. Mr. Corson requested that her entire testimony be transcribed and made a part of the July 10, 2012 Minutes.

Ms. Arnold stated that she does not feel that there will be any major impact on the vernal pool because of these activities.

Mr. Corson stated that although the wetland #1 is not a vernal pool it is a valuable wetland. It was noted that wood frogs from wetland #1 would disperse over to Lot 2. As the wood frogs are essential to the health and vitality to the wetlands, Mr. Corson suggested the elimination of Lot 2. Mr. Corson stated that wood frogs promote the health of wetland #1 and we do not want to interfere with the wood frog's habitat.

Ms. Arnold stated that she disagrees with this testimony. Ms. Arnold stated that when referring to species of the wetlands, we can look at the impact on species but only if the impact will impact the physical characteristics of such wetland. Ms. Arnold stated that

when reviewing the DEEP letter and the Trinkhaus report, she does not agree with Mr. Corson.

Motion made by Chuck Corson to approve a Permit for **Application #12-5 Ingham Hill Road, Applicant, River Sound Development, LLC** for a 6-lot Open Space subdivision at the end of Ingham Hill Road and as further detailed under “conditions”. Based on the documents presented, on the site inspection and on the testimony given at previous meetings, the Commission finds that the proposed activity is a regulated activity not involving any significant or major effect upon the inland wetlands or watercourse which occur on the property as defined in Section 2.2 of the regulations and that no reasonable or prudent alternative exists to the proposed plans. The Commission members feel that the proposed activities are well suited to the area.

The Commission makes a Plenary Ruling and grants a permit and permission for the applicant to proceed with proposed activity as stated on said application and as shown on plans accompanying the application, subject to the following conditions:

1. Eliminate Lot 2. The concern was noted throughout the Public Hearing that this lot was “too tight” or “unbuildable”, which appears true but is not sufficient for elimination based on the Wetlands Regulations. This lot should be eliminated based on the significant value of the adjacent Wetlands #1 and the expected use of a resident wood frog population to utilize Lot 2 as habitat. Since this species is known to promote the health and function of Wetlands, the elimination of development in this area will meet this criteria. This condition will ensure the protection of a highly valuable Wetland, which is not a vernal pool but works with vernal Pool #6, in Wetland #2. This provides for continuation of the important habitat interaction which exists now.
2. Condition on Lot 3: “connectivity corridor” crosses the paved driveway, which may act as a barrier to some species, including high asphalt temperatures. The condition is that the driveway, within the limits of this corridor, be constructed of “Grasscrete” or paving blocks with grassed joints, or other similar construction, in order to provide more natural crossing.
3. Also on Lot 3, per recommendations of NDDB/DEEP, the construction will be in the spring. If constructed in summer or fall, their eastern box turtle recommendations, dated July 5, 2012 shall be followed.
4. Similar to Lot 3, a condition should require the Trailhead parking lot surface to be constructed of porous blocks to reduce runoff and be more natural. If acceptable to the conservation commission, this parking area could be eliminated.
5. The use of pesticides and herbicides is restricted per Item #6 of the Conservation Commission July 6, 2012 report.
6. The soil media and construction methods for the bioretention systems shall conform to the June 3, and July 9, 2012 recommendations of Trinkhaus Engineering, LLC.

7. The Essex IWWC will send a copy of this decision to the Old Saybrook IWWC and Planning commission, with the following request: Please have current development plans adjacent to this Essex site revised, prior to any approvals, to protect the interaction between Vernal Pool #6 in Essex and Vernal Pool #24 in Old Saybrook, if such development is again considered.
8. In accordance with the Commission's Regulations, the activity pursuant to said permit shall be initiated within 5 years of the date of publication and shall be completed within one year of the date of initiation and will occur between March 15th and October 15th of the year of initiation.
9. Should the applicant determine that the permitted activity will not be completed between March 15th and October 15th of the year of initiation, the applicant agrees to appear before the Commission and present a plan for the stabilization of the site during the non-permitted months.
10. The applicant agrees to follow the advice and direction of the Town of Essex Enforcement Officer with regard to any field changes she/he deems necessary or may require for the protection of the inland wetlands and water course during the process.
11. The Commission, through its Enforcement Officer, shall be notified in writing upon the initiation of the authorized activity and again upon completion of these activities

Other:

1. The Essex IWWC will send a copy of this decision to the Old Saybrook IWWC and Planning commission, with the following request: Please have current development plans adjacent to this Essex site revised, prior to any approvals, to protect the interaction between Vernal Pool #6 in Essex and Vernal Pool #24 in Old Saybrook, if such development is again considered.
2. In accordance with the Commission's Regulations, the activity pursuant to said permit shall be initiated within 5 years of the date of publication and shall be completed within one year of the date of initiation and will occur between March 15th and October 15th of the year of initiation.
3. Should the applicant determine that the permitted activity will not be completed between March 14th and October 15th of the year of initiation, the applicant agrees to appear before the Commission and present a plan for the stabilization of the site during the non-permitted months.
4. The applicant agrees to follow the advice and direction of the Town of Essex Enforcement Officer with regard to any field changes she/he deems necessary or may require for the protection of the inland wetlands and water course during the process.
5. The Commission, through its Enforcement Officer, shall be notified in writing upon the initiation of the authorized activity and again upon completion of these activities.

Discussion: Ms. Arnold stated that she agrees with all of the above referenced conditions with the exception of the elimination of Lot 2.

Motion seconded by Claire Tiernan and passed unanimously.

Commissioner, Jeff Lovelace was seated at 8:45 p.m.

New Business

No new business

Other Business

Approval of Minutes - Regular Meeting, July 10, 2012

The following changes were suggested:

Page 2, last word of the second paragraph, “*area*”.

Page 4, Sigrun Gadwha text should be expanded upon. Ms. Beaudoin will listen to the audio recording from the July 10, 2012 meeting and transcribe testimony presented by Sigrun Gadwha.

Motion made by Chuck Corson to approve the Minutes of the July 10, 2012 meeting as amended.

Motion seconded by Steve Knauth and passed unanimously.

Wetlands Agent – Various Agent Approvals: Mr. Budrow stated that there were four agent approvals given in past few months:

Motion made by Chuck Corson to approve the Agent Permit Application 12A-5 granted to Michael Picard at 141 Saybrook Road, Essex for a grade level patio with fire pit.

Motion seconded by Nancy Arnold and passed unanimously.

Motion made by Chuck Corson to approve the Agent Permit Application 12A-6 granted to “Martin” at 19 Racket Lane, Essex.

Motion seconded by Nancy Arnold and passed unanimously.

Motion made by Chuck Corson to approve the Agent Permit Application 12A-7 issued to Benjamin Costa for property located at 89 Main Street, Centerbrook for septic repair.

Motion seconded by Claire Tiernan and passed unanimously.

Motion made by Chuck Corson to approve the Agent Permit Application 12A-8 issued to Nancy Arnold and Frank Telo, Main Street, Essex to raise the grade of the driveway.

Motion seconded by Dan Lapman and passed unanimously with Nancy Arnold abstaining.

Motion made by Nancy Arnold to authorize Joe Budrow, ZEO/WEO to take pictures of the property next to Centerbrook post office reflecting the cable fencing and signage and that Mr. Budrow will direct the owner of the property that maintenance is to take place so that the signage and the fence is visible.

Motion seconded by Chuck Corson and passed unanimously.

Chairman Report: Daniel Lapman – no report.

Planning Commission: Claire Tiernan - no report

Conservation Commission: Mr. Lovelace stated that beginning in September 2012, the Conservation Commission meetings will be moved to the first Monday of the month.

Zoning Commission: Larry Shipman - no report.

Adjournment

Motion made by Dan Lapman to adjourn at 8:55 p.m.

Motion seconded by Chuck Corson and passed unanimously.

Respectfully submitted,

Stella C. Beaudoin
Recording Secretary

The next regularly scheduled meeting of the Essex IWWC will be conducted on September 11, 2012 in Room B of the Essex Town Hall.

The proceedings of the August 14, 2012 Public Hearing were recorded on 1 card. Please speak with the Essex Zoning Office for further information.

